

SUBCOMMITTEE NO. 4

Agenda

Senator Mike Machado, Chair
Senator Tom Harman
Senator Christine Kehoe



Wednesday, May 21, 2008
1:30 p.m.
Room 112

Consultant: Bryan Ehlers

“B” Agenda

Item Number and Title

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Item Proposed for Vote-only

2320 Department of Real Estate

Supplemental Report Language Requiring Information Technology (IT) Update.

Over the past several years, the Department of Real Estate (DRE) has implemented various IT initiatives to improve its services and the efficiency with which they are delivered.

Staff Comment: The following supplemental report language (SRL) would require the DRE to update the Legislature on the success of various IT projects, and help ensure that the department continues to pursue opportunities to improve the efficiency of its operations.

The Department of Real Estate shall report by March 1, 2009 to the chairperson of the budget committee of each house of the Legislature and to the Legislative Analyst's Office on the status of its Electronic Exams project, as well as provide an update on utilization of the e-Licensing system and its related savings. The department shall also report on further opportunities to achieve administrative efficiencies through the use of information technology.

Staff Recommendation: APPROVE the SRL (in conformance with the Assembly).

Control Section 15.25 Data Center Rate Adjustments

The Governor proposes a minor, technical revision to this control section which allows the Director of Finance to adjust the amount in any appropriation item in the Budget Act resulting from changes in rates for data center services approved by the Technology Services Board.

Staff Recommendation: APPROVE the request.

VOTE on Vote-Only Items:

Items Proposed for Discussion

0840 State Controller

The State Controller is the Chief Financial Officer of the state. The primary functions of the State Controller's Office (SCO) are to provide sound fiscal control over both receipts and disbursements of public funds; to report periodically on the financial operations and condition of both state and local government; to make certain that money due the state is collected through fair, equitable, and effective tax administration; to provide fiscal guidance to local governments; to serve as a member of numerous policy-making state boards and commissions; and to administer the Unclaimed Property and Property Tax Postponement Programs.

The Governor's Budget begins by funding 1,386.3 positions (a net decrease of 2.2 positions over adjusted current year totals) and budget expenditures of \$185.7 million (including \$89.9 million GF) for the department, but then includes a 10-percent, across-the-board, unallocated GF reduction (Budget-Balancing Reduction–BBR) of approximately \$9.0 million.

DISCUSSION ITEMS:

Human Resources Management System (HRMS)/21st Century Project (Items 1-3)

The following three items should be considered and voted upon together.

1. BCP-4A: HRMS/21st Century Project. The SCO requests 70.5 limited-term positions and \$38.3 million (\$21.9 GF; 2.9 reimbursements; and \$13.5 million special funds).

Staff Comment: This request is part of an ongoing multi-year project (which was first funded in FY 2003-04) to replace existing employment history, payroll, leave accounting, and position control systems. The Subcommittee discussed and held this item open at an earlier hearing, pending a revised Special Project Report (SPR) from the Administration. The revised project proposal is discussed below in Item 2.

2. Finance Letter: HRMS/21st Century Project (with provisional language). The SCO requests authority to establish 24.9 two-year limited-term positions (to be paid for by a \$2.5 million reduction in Operating Expenses and Equipment), and provisional language to adjust funding for the 21st Century Project, for FY 2008-09, if necessary.

Staff Comment: Initial 21st Century Project funding was provided pursuant to a May Revise request in FY 2003-04, and was made contingent upon an approved Feasibility Study Report (FSR). The following year, the Administration brought forward another May Revise request, based on an FSR approved May 14, 2004, and the Legislature approved funding for the procurement phase of what was then estimated to be a \$132.1 million project to replace the state's existing employment history, payroll, leave accounting, and position control systems. In each subsequent year, the Legislature has approved additional funding, with the last revision to the project plan coming on March

15, 2006 (when the estimated cost increased by approximately \$6.0 million—to \$138.4 million).

Although the SCO is not asking for additional funding in FY 2008-09, this latest request is based upon another revision to the 21st Century Special Project Report (SPR), finalized on April 21, 2008, which estimates the project will take an additional year and \$40 million dollars (a nearly 30-percent cost increase) to successfully complete. The following table compares the project costs under the previous (“old”) SPR (April 11, 2006) to the new estimates under the latest SPR (April 21, 2008):

Fiscal Year	SPR*	Redirection	Reimbursements	Special Funds	Federal Funds	General Fund	Total
2003-04	Actual	\$462,943	\$947,964				\$1,410,907
2004-05	Actual	1,197,109	1,020,878	\$2,453,000	\$399,422		\$5,070,409
2005-06	Actual	740,315	736,000	7,695,980	1,245,359		\$10,417,654
2006-07	Actual	1,230,177	1,036,000	13,548,050	2,489,929	\$18,444,372	\$36,748,528
2007-08	Actual/ Projected	1,306,772	1,036,000	14,651,481	2,029,061	21,261,850	\$40,285,164
2008-09	Old	1,843,099	663,001	14,311,981	2,509,683	18,834,557	\$38,162,321
	New	1,333,368	1,036,000	13,504,688	735,790	10,919,770	27,529,616
2009-10	Old	4,432,450				4,373,729	\$8,806,179
	New	1,333,367	666,001	20,416,144	3,126,978	9,936,568	\$35,476,058
2010-11	New					21,733,322	\$21,733,322
Totals	Old	\$11,056,336	\$5,439,843	\$51,499,213	\$9,447,929	\$60,947,142	\$138,390,463
	New	\$7,604,051	\$6,475,843	\$72,269,843	\$10,026,539	\$82,295,882	\$178,671,658

(*“Old” SPR = 2006; “New” SPR = 2008)

As illustrated above, much of the additional \$40 million in funding will not be required until the out years of 2009-10 and 2010-11. In fact, the budget-year need for GF decreases by \$7.9 million (from \$18.8 million to \$10.9 million) under the proposal. Staff notes, however, that the Governor is requesting no change to the originally requested level of appropriation, but has instead proposed provisional language to authorize the Department of Finance to reduce GF authority consistent with a final, revised contract agreement with the system integrator (Bearing Point—BP). This issue is addressed in the “LAO Recommendation” section below.

According to the Administration, the SCO and BP realized by the summer of 2007 that the project was behind schedule and corrective actions were necessary to get the project back on track. Several key decisions, regarding the development and design of the project were made around that time, including the following:

1. A change from a four-build/deployment to a two-build approach.
2. Design issues regarding retroactivity and concurrent employment were analyzed and new action plans were developed and incorporated into the master schedule.

Although work on the project did not entirely stop, during the ensuing fall and into the winter, the SCO and BP were in talks regarding BP's request to amend the original terms of the project contract, including changes to the project schedule, costs, and build/deployment approach. The two parties reached an amended agreement in early January 2008, and this triggered the need for the revised SPR (noted above). Staff notes that the state has not agreed to increase the amount of the BP contract. According to the SCO, the new SPR would add \$1.7 million in additional deliverables, which would bring the total deliverables to \$68.1 million (or \$1.0 million below the \$69.1 million total value of the contract). The remainder of the \$40.0 million would go to fund other state costs primarily associated with project changes and the extension of the timeline into an additional fiscal year (for example, extending state staff alone will cost an additional \$16.6 million, while data center costs will run an additional \$9.6 million).

Staff notes that included in this proposal is a reduction in reimbursement authority of \$85,000 and 1.0 position for the Department of Personnel Administration (which is cooperating with the SCO on the 21st Century Project).

LAO Recommendation: The LAO recommends the following changes to the proposed provisional language:

1. Where "Special Project Report" is referenced in each of the proposed provisions, it should be prefaced with the phrase "the most recently approved."
2. In the third proposed provision, after "Notwithstanding", strike "any other provision of law" and substitute "provisions of Item 9840."
3. Reduce SCO's 21st Century HRMS budget by \$7.9 million GF to reflect the most recently approved SPR.

The LAO-recommended, Item 0840-001-0001 provisional language (described above) reads as follows:

X. Notwithstanding any other provision of law, the Controller may not expend funds for system integration vendor costs related to the Human Resources Management System (HRMS), also known as the 21st Century Project, after July 31, 2008, beyond the Design Phase Payment Deliverables for the 21st Century Project as set forth in Amendment 1 to Agreement No. 22191025, until the Office of the Chief Information Officer certifies the Controller has entered into a contract or contract amendment with a system integration vendor that is consistent with the most recently approved Special Project Report for HRMS.

X. Funding for system integration vendor costs shall not exceed the estimates in the most recently approved Special Project Report for Human Resources Management (HRMS), also known as the 21st Century Project, unless in the course of contract negotiations the state and the vendor mutually agree that additional functionality is necessary for the successful implementation of the HRMS and such changes are approved by the Office of the Chief Information Officer. However, no such contract or contract amendment shall be executed until 30 days after notification in writing to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committees of each house of the Legislature that consider appropriations.

X. Notwithstanding provisions of Item 9840, the Department of Finance may adjust the amounts authorized under Item 0840-001-0001 and Control Section 25.25 of this act, consistent with the funding schedule included in the most recently approved Special Project Report for the Human Resources Management System, also known as the 21st Century Project. (a) No adjustments shall be made pursuant to this provision prior to a 30-day notification in writing to Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committees of each house of the Legislature that consider appropriations.

3. BCP-4B: HRMS/21st Century Project Federal Fund Repayment. The SCO requests \$969,000 for reimbursement of federal funds collected in 2005-06 and 2006-07.

Staff Comment: In early 2007, the SCO was notified by the United States Department of Health and Human Services that certain costs are not chargeable to federal funds prior to system implementation. As a result, the state must refund (with interest), approximately \$1.0 million in federal funds collected for unallowable 21st Century Project costs in FYs 2005-06 and 2006-07. The SCO indicates that, while these costs must be repaid at this time, the GF will be reimbursed when the federal fund sources pay their fair share after the system is operational.

Staff Recommendation for Discussion Items 1, 2, and 3: APPROVE Item 1, the LAO recommended revisions to Item 2, and Item 3 as budgeted.

VOTE:

0845 Department of Insurance

Under the leadership of the state's Insurance Commissioner, the California Department of Insurance (CDI) regulates the largest insurance market in the United States with over \$118 billion in direct premiums written in the state. The Department conducts examinations and investigations of insurance companies and producers to ensure that operations are consistent with the requirements of the Insurance Code and those insurance companies are financially able to meet their obligations to policyholders and claimants. The Department also investigates complaints and responds to consumer inquiries; administers the conservation and liquidation of insolvent and delinquent insurance companies; reviews and approves insurance rates; and combats insurance fraud.

The Governor's budget funds 1,338.8 positions (including 6.5 new positions) and expenditures of \$224.1 million (special fund), programmed as follows:

Program	Expenditures*	% of Department Budget
Fraud Control	\$95,113	42%
Regulation of Insurance Companies & Insurance Producers	\$71,735	32%
Consumer Protection	\$55,148	25%
Tax Collection & Audits	\$2,122	1%

(*dollars in thousands)

VOTE-ONLY ITEMS:

1. BCP: Credit Card Transaction Fees Augmentation. The CDI requests \$120,000 (Insurance Fund) to cover the projected increase in credit card convenience fees associated with internet and telephone producer licensing services.

Staff Comments: The CDI has been able to absorb the current \$371,914 in credit card costs because of savings generated when the department switched from primarily manual processing of licenses to an automated system. However, the department indicates that additional credit card transaction fees can no longer be absorbed.

Staff Recommendation: APPROVE the request.

VOTE:

2. BCP: Telecommunications Infrastructure Replacement Project (TIRP)—Extend Limited-Term Positions. The CDI requests \$137,000 (Insurance Fund) in FY 2008-09 and \$274,000 in FY 2009-10 to extend the term of 3.0 limited-term positions by 18 months.

Staff Comments: As the TIRP reaches full implementation, the CDI indicates the requested extension is necessary to allow ample time for the collection of empirical

workload data to determine the extent of ongoing permanent staffing and resources to fully support the Voice Over Internet Protocol/Call Center systems.

Staff Recommendation: APPROVE the request.

VOTE:

3. BCP: Americans with Disability Act (ADA) Compliance Workload. The CDI requests \$83,000 (Insurance Fund) for two years to fund temporary help to address ADA workload in the Equal Employment Opportunity (EEO) Office and ensure that the department is fully ADA compliant.

Staff Recommendation: APPROVE the request.

VOTE:

4. Trailer Bill Language (TBL): Surcharge on Property Insurance—Wildland Firefighting Initiative. The Governor proposes TBL to create a Firefighting Safety Account within the Insurance Fund and to require the CDI to impose on insurers an annual assessment of 1.25 percent of the premium for each commercial and residential insurance policy.

Staff Comment: On a premium base of approximately \$10.5 billion, the proposed assessment would generate approximately \$105 million in FY 2008-09, and an estimated \$125 million annually thereafter, to the Firefighting Safety Account. Under the Governor's proposal, these dollars would fund a variety of firefighting measures contained in other budgets (including the Department of Forestry and Fire Protection, the Military Department, and the Office of Emergency Services).

As discussed during the legislative special session on the fiscal emergency, there are concerns about both the legality and equity of levying what is essentially a surcharge on all residents of the state including those that do not directly benefit from the state's wildland fire protection efforts. Additionally, as the LAO notes, the Governor's Budget does not provide funding or positions for collection of the proposed "special assessment." According to the CDI, it would likely require some additional staff to implement the proposal, but the level of resources required would depend upon the process for collecting the funds.

Staff Recommendation: DENY the TBL.

VOTE:

5. BCP: Increase Local Assistance to District Attorneys for Prosecution of Workers' Compensation Insurance Fraud. The CDI requests a one-time spending authority increase of \$4.0 million (Insurance Fund) to assist district attorneys in combating workers' compensation fraud. The need for an additional assessment on insurers for this activity was decided by the Governor-appointed Fraud Assessment Commission in September 2007.

Staff Comment: Existing fraud-program efforts address Suspected Fraudulent Claim (SFC) referrals made by various sources, including insurance carriers, informants, witnesses, law enforcement agencies, fraud investigators, and the public. However, in the CDI's own words:

The number of SFCs received by the [CDI] Fraud Division represents only a small portion of suspected insurance fraud, and does not necessarily reflect the whole picture of fraud/abuse. Many fraudulent activities may not have been identified or investigated.

As was discussed last year when this issue came before the subcommittee, staff notes that not only may SFCs fail to identify many fraudulent activities, but the CDI cannot be certain that the SFCs identify the most egregious instances of fraud. This data gap means that the CDI may not be putting limited anti-fraud resources to their highest and best use (namely, targeting the most egregious/highest profile instances of fraud). While staff notes that this data gap will likely never be entirely filled, since would-be perpetrators of fraud will always seek to operate in secret, properly researching the issue ought to enable the CDI to better target fraud resources.

During the 2007-08 budget process, when the CDI requested additional funding, totaling \$3.7 million, for workers' compensation insurance fraud prosecution, the Legislature approved the funding on a two-year limited-term basis with the understanding that a broad-based workers compensation insurance fraud study, approved as part of the 2006-07 Budget and augmented in 2007-08, would be completed in April 2008. The study was recommended by an April 2004 Bureau of State Audits report and was intended to measure the extent of workers' compensation insurance fraud as well as emerging trends in insurance fraud. According to the CDI, a study draft will be available in April 2008 with a final copy to be released May 15.

In the meantime, the University of California, Berkeley (UCB) has prepared a report for the California Commission on Health and Safety and Worker's Compensation (CHSWC) that was released in August 2007. Among other things, the UCB report documented a trend of increasing under-reporting of private industry payroll as workers' compensation insurance premium levels increased over the period from 1997 to 2002. The report also noted that payroll was being under or misreported for very high risk classes of workers by as much as 65 to 75 percent. To address these issues, the report made multiple recommendations to the CHSWC, including the following, that applied to the CDI:

- *The Legislature, California Department of Insurance, Department of Industrial Relations/Division of Labor Standards and Enforcement could push for more aggressive enforcement against misreporting and under-reporting. This could include:*
 - a. *Focusing more Fraud Assessment Commission funding on premium fraud,*
 - b. *Raising the civil penalties for premium fraud, and/or*
 - c. *Raising the criminal penalties for premium fraud.*
- *The Test Audit Program which monitors insurer audits of policyholders is currently operated by the Workers' Compensation Insurance Rating Bureau, an insurance industry association. The California Department of Insurance*

might consider the suggestion of some observers and have this process conducted by a separate, private contractor.

- Recently, at least one very large national insurer was fined for systematically under-reporting premium in several states (Bloomberg News, 5/26/07). It is unclear whether the under-reporting extended to payroll and occurred in California. If this extended to California, then the estimates of under-reporting could include fraudulent behavior by at least one insurer, not just employers. This should be a high priority for study by CHSWC and CDI.*
- Even more critical, if one or more insurers under-reported payroll and premium, there is a strong possibility that this action could have affected individual employers experience modification. In the aggregate, insurer under-reporting could also have elevated pure premium rates set by the WCIRB and CDI. Again, this should be a high priority area for CHSWC and CDI to study.*

The subcommittee may wish for the CDI to discuss the findings contained in the UCB report and to comment on how or if the department intends to address the recommendations.

Staff Recommendation: DENY the request. The Subcommittee has heard insufficient discussion of the department's efforts to target the requested funds at the most egregious fraud, and cannot be confident that they are being put to their highest and best use.

VOTE:

6. BCP: Automobile Rating Regulation Workload. The CDI requests 5.0 positions and \$475,000 (Insurance Fund) to address increased workload resulting from recent regulatory changes.

Staff Comment: Proposition 103, passed in 1988 by the California voters, authorizes the CDI to pre-approve casualty rates and to challenge current rates if the Commissioner believes that the rates are excessive. Rate applications must be processed timely since the application is deemed approved 60 days after the public is given notice of the rate filing and, in any case, the rate is deemed approved 180 days after the application is received by the Commissioner, unless certain circumstances exist. The CDI can only disapprove a rate application after a formal public hearing in which a CDI attorney presents the department's case before an administrative law judge.

Due to recent changes in regulations, the CDI anticipates increased numbers of hearings in several areas:

- Ongoing Filing Requirement.** Insurers, in certain circumstances, will have to file rate applications containing information critical to the department's ability to determine whether their rates are excessive. In the past, if an insurer had not filed a rate application for several years, the CDI would have had to pursue legal proceedings, including the discovery process, simply to obtain the information necessary to determine whether their rates were excessive. The costs of such a

process were prohibitive, which meant that, during periods in which rates dropped, the CDI faced difficulty in ensuring that customers were not overcharged. Under the new regulations, the CDI will receive greatly enhanced data regarding insurer rates, and anticipates bringing more applications to hearing.

- **New Automobile Rating Regulations.** New weighting requirements for automobile insurance rates and class plans went into effect in 2006 that, combined with the ongoing filing requirement above, will result in additional hearings.
- **Reinsurance Costs.** For earthquake and certain medical malpractice applications, if certain criteria are met, the CDI must hold a hearing regarding the reasonableness of the reinsurance costs, and whether the costs will be included in the proposed rate change.
- **Variances.** The regulations code now contains additional grounds on which insurers may request a variance from the provisions of the rate formula. Based upon discussion with insurers, the CDI expects to receive more variance requests than in the past.

Staff notes that while the rationale for increased workload provided above is generally credible, the numbers of hearings estimated (which drives the number of positions requested) are somewhat speculative at this time. Due to the state's strong interest in ensuring that customers are not overcharged for insurance, the subcommittee may wish to give the CDI the benefit of the doubt and approve these positions, but require the department to report, over the next several years, on the number of hearings required in the areas outlined above. It may be that, over time, the industry will adjust to the new regulations and fewer hearings will be needed.

Staff Recommendation: APPROVE the request with SRL requiring the CDI to compare the projected workload to the actual workload over the next several years.

VOTE:

7. BCP: General Fund Tax Collection Program Funding. The CDI requests \$2.1 million GF, and an equivalent decrease in special fund expenditure authority, to fund a General Fund Tax Collection Program.

Staff Comment: In FY 2002-03, as part of a May Revision General Fund cost reduction action, funding for the CDI's General Fund Tax Collection Program was shifted from the GF to the Insurance Fund. While the work remained the same, namely collecting GF taxes from the insurance industry, according to the CDI, the reduction forced the department to fund GF revenue tax collection activities with special funds. The CDI now requests to shift support of the program back to GF.

Staff notes that the original fund shift was made during a fiscal crisis and therefore it seems counter-intuitive that the Administration is now seeking to reverse this policy in the midst of another fiscal crisis. Staff additionally notes that rejection of this proposal would save \$2.1 million GF relative to the Governor's Budget.

Staff Recommendation: DENY the request.

VOTE:

8. TBL: Life & Annuity Consumer Protection Program (LACPP): Delete Program Sunset. The Administration proposes TBL to delete the January 1, 2010, sunset of the LACPP.

Staff Comment: The CDI has provided insufficient justification for the repeal of the existing sunset for the LACPP based on data from the program's first full year of implementation. The CDI indicates that "the program and expenditure reports submitted to [the CDI] by the [District Attorneys] after the end of the grant year were adequate since they contained narratives of funded activities, details regarding personnel salaries and benefits, and a breakdown of operating costs." Staff notes, however, that the reporting referenced above does not provide sufficient evidence to conclude that LACPP funds are being put to their highest and best use (prosecuting or deterring the most egregious cases of fraud). Given that the program is supported by a fee on individual life insurance policies that can be passed on to consumers, the CDI ought to be able to demonstrate that the funds raised are, in an objective sense, producing the optimal return on investment in addressing life and annuity insurance fraud, and, in a more subjective sense, meeting the policy goal of providing protection to consumers of these types of insurance.

The statute authorizes the Commissioner to perform an audit of the program. The subcommittee may wish to encourage the CDI to perform an audit of the LACPP, including an analysis of how effectively the funding is targeted at the local level, and bring this proposal forward again next year if the audit findings provide a stronger justification to continue the program.

Staff Recommendation: DENY the TBL.

VOTE:

9. BCP: Life & Annuity Consumer Protection Fund Spending Authority Increase.

The CDI requests \$750,000 per year (Insurance Fund) for five years to assist district attorneys in combating life insurance and annuity financial abuse. Based on applications for these funds, they will be distributed to prosecute financial abuse crimes and educate consumers on financial abuse related to life insurance and annuity products.

Staff Comment: The CDI recently settled an enforcement action against a life insurer for \$3,750,000, to be paid to the Life and Annuity Consumer Protection Fund at a rate of \$750,000 per year for five years. Given that existing statute would repeal the Life & Annuity Consumer Protection Program and eliminate its fund source effective January 1, 2010 (as noted in Item 5, above), the CDI got the insurer to agree to alternate use for the funds if the sunset is not extended—redirection to the Disability and Health Fraud Assessment Fund.

Consistent with staff comments in Item 8 (above), the subcommittee may wish to approve this request for one year only with the expectation that an additional year of data on LACPP efforts will better inform a future decision on whether or not to continue the program and the funding requested.

Staff Recommendation: APPROVE the requested funding, but for one year only.

VOTE:

10. FL: Paperless Workflow System. The CDI requests \$2.8 million (Insurance Fund) to support procurement of an enterprise electronic management “paperless” workflow system in the first year of a three-year project. The CDI anticipates future resource needs as follows:

FY 2009-10 – 2.0 limited-term positions and \$2.5 million

FY 2010-11 – \$792,000

FY 2011-12 and ongoing – \$400,000

Staff Comment: According to the CDI, the proposed system would offer electronic forms and allow electronic filing of reports and documents to customers, greatly improving departmental efficiency by providing more timely access to documents and eliminating growing storage problems. Staff notes that many insurance companies are already equipped with the necessary technology to implement paperless communication; the CDI merely needs to catch up.

The LAO notes that the state has implemented similar paperless workflow systems in other departments, and, therefore, the feasibility of the project is not necessarily a concern. Additionally, the Insurance Fund contains a sufficient balance to support project costs. However, the Subcommittee may wish to adopt the following supplemental report language (SRL)—also adopted by the Assembly—to provide the Legislature with improved oversight of the project:

The California Department of Insurance shall report by January 10 of each year through 2011 to the chairperson of the budget committee of each house of the Legislature and to the Legislative Analyst's Office on its progress implementing the Paperless Workflow System—a centralized electronic document management system. Specifically, the department shall report on its progress as compared to the milestone and deliverable dates reported in its feasibility study report for this project, as well as report on its actual and projected expenditures.

Staff Recommendation: APPROVE the request with SRL.

VOTE:

11. Staff Item: Conservation & Liquidation Office (CLO)—Oversight of Successor Insurers and Accounting for the Distribution of Estate Assets. The CDI's CLO assists the Insurance Commissioner (Commissioner) in conserving, rehabilitating, or liquidating financially distressed or insolvent insurers (known as “estates” once a court has ordered the Commissioner to proceed with conservation or liquidation of the insurers' assets). As of December 2007, the CLO was responsible for 25 estates, with

assets totaling approximately \$2.9 billion. The court orders calling for the liquidation of these estates spanned over 20 years (from 1985 to 2006).

Staff Comment: The Bureau of State Audits (BSA) issued a January 2008 report finding that the policyholders of one of the estates under the Commissioner's supervision (Executive Life Insurance Company—ELIC) had, over a 17-year period spanning five insurance commissioners, incurred significant economic losses. Additionally, the BSA noted that the CLO had failed to consistently monitor and report on fund distributions from the estate.

In his response to the audit, the Commissioner: (1) noted his pleasure that the report contained no findings of inappropriate use of estate funds or any negative findings regarding the proper and prompt distribution of funds to policyholders; (2) noted that the report was erroneous or did not provide a full and accurate context in some instances; but (3) indicated his intent to implement the BSA's recommendations.

In responding to the Commissioner's comments, the BSA reasserted that: (1) inconsistent CLO monitoring of the ELIC estate had resulted in less assurance that funds were distributed correctly from 1998 to 2006 compared to other periods; (2) inconsistent reporting had resulted in a lack of information available to policyholders and others interested in the ELIC estate; and (3) inconsistent accounting practices and inconsistent availability of supporting documents hindered a complete accounting of the ELIC estate. Additionally, the BSA refuted the Commissioner's accusation that his actions had not been put into full context in the report, and noted that he "mischaracterized" the BSA's recommendations when asserting that periodic audits of the ELIC estate constituted "proper handling."

Staff notes that although the Commissioner committed to implementing the BSA's recommendations regarding the activities of the CLO, the clear discrepancy between the BSA's "interpretation" of its findings and the Commissioner's interpretation of those findings may warrant the subcommittee's inquiry regarding his specific intent with respect to implementing the BSA's recommendations. Additionally, in light of the BSA's findings and given the nearly \$3 billion dollars in assets at stake, the subcommittee may wish for the CDI to provide a report to the Legislature with a full accounting of the CLO, including, but not limited to, the number of positions within the office, their salaries, the CLO's legal expenses, and any insolvencies not closed within five years of a court ordered liquidation.

Staff notes that while the policyholders of an insolvent insurer stand to lose the most if an estate is inadequately overseen, there are others who may be affected. For example, the California Insurance Guarantee Association (CIGA) was established in the California Insurance Code to help relieve the financial burden on claimants (by paying their claims) when an insurer fails. The CIGA is funded in part by surcharges to insurance policies issued in California, but it also receives funds from the estates of insolvent insurance companies. Therefore, to the extent that estate funds are not managed effectively and efficiently, the CIGA stands to receive less funding from this source and could potentially need to raise more revenue through surcharges on policies—a cost to California's insured.

Staff Recommendation: ADOPT placeholder trailer bill language requiring the CDI to provide a full accounting to the Legislature on the CLO (as described above).

VOTE:

0890 Secretary of State

The Secretary of State (SOS), a constitutionally established office, is the chief election officer of the state and is responsible for the administration and enforcement of election laws. The office is also responsible for the administration and enforcement of laws pertaining to filing documents associated with corporations, limited partnerships, and the perfection of security agreements. In addition, the office is responsible for the appointment of notaries public, enforcement of notary law, and preservation of certain records with historical significance. All documents filed with the office are a matter of public record and of historical importance. The Secretary of State's executive staff determines policy and administration for Elections, Political Reform, Business Programs, Archives, and Information Technology and Management Services Divisions.

The Governor's Budget begins by funding 505.0 positions (a net increase of 7.0 positions over adjusted current year totals) and budget expenditures of \$125.6 million (including \$35.0 million GF) for the department, but then includes a 10-percent, across-the-board, unallocated GF reduction of approximately \$3.5 million.

DISCUSSION ITEMS:

1. May Revise Letter: Early Presidential Primary Costs Incurred by Counties (with provisional language). The Secretary of State (SOS) requests \$89.6 million in General Fund (GF) local assistance to pay for costs incurred by counties for the Presidential Primary election held in February 2008 pursuant to Chapter 2, Statutes of 2007 (SB 113).

Staff Comments: Although the 2005 special election cost the counties approximately \$40 million, according to the Department of Finance (DOF), the costs of this year's early presidential primary were significantly higher for the following reasons:

1. Most significantly, the election was a primary, which requires a far greater number of ballots because each party gets its own. Primaries are always much more expensive than general elections.
2. A third of the counties had to migrate to paper ballots, which they were not using before. This is a significant cost driver, especially for the counties that are required to present ballots in multiple languages. Voting machines took care of those situations in the past but are no longer allowed (due to decertification). All but two counties had 99% of votes cast on paper, and even those two counties had to print many more ballots than before since voters could request one at the polls. Paper ballots cost between about 50 and 70 cents each.
3. Not only has registration increased since 2005, but there are many more voters who vote by mail (not necessarily permanent). Vote-by-mail ballot counting is a whole secondary process that is done almost entirely by hand.
4. The Help America to Vote Act (HAVA) took effect on January 1, 2006, and caused a sea change in the way elections are administered, requiring equipment in every polling place for confidential and independent voting. Complying with these requirements makes elections cost more.

While the legislative analysis of SB 113 did anticipate higher costs—\$48 to \$80 million—than the 2005 special election, and the multi-pronged rationale provided may hold some

merit, the Administration has provided insufficient evidence to fully address the following challenges to the above rationale:

1. The counties knew this was a primary election going in, so why were their estimates still significantly lower than the actual costs claimed?
2. How significant of a cost driver was the switch to paper ballots? Does it account for most, or only some of the costs above and beyond the original estimate?
3. The Counties asked that SB 113 provide that the early primary be a vote-by-mail (VBM) election only, and have argued in the past that VBM saves money. So, the claim that VBM is now more expensive seems contradictory.
4. Equipment costs should not be part of this. Any equipment used in February can be used again in June and November. This is not a special election cost. It is something counties would have to pay for regardless of the special election. Additionally, didn't the counties receive HAVA money from the federal government for this? Why should equipment costs be a cost driver in this instance?

Staff notes that some of the election costs are state mandate reimbursable (SB 90), while others are merely reimbursable as a matter of precedent. The DOF estimated the counties' election costs at \$75.0 million, and yet approved this request containing an additional \$14.6 million in unanticipated costs. The Subcommittee may wish to ask the DOF the following questions:

1. Did the DOF estimate of \$75.0 million include all county election costs (both mandate-reimbursable as well as merely "reimbursable") or did it exclude mandate-reimbursable costs?
2. If the DOF estimate contemplated all of the costs, and is fully comparable to the nearly \$90 million in reimbursement requested by the counties, what due diligence did the DOF conduct, considering that this is GF, in order to determine that the additional costs were all legitimate?

It appears that the legislative intent was to reimburse the counties in-full for the costs incurred by the early presidential primary held under SB 113. However, in light of the higher than estimated costs, the current fiscal crisis, and the lack of clear answers to the questions raised above, the Legislature may wish to conduct an audit to confirm the validity of all of the counties' costs.

Staff Recommendation: APPROVE placeholder TBL requiring the SCO to audit the counties' costs. Additionally, APPROVE initial expenditure authority of \$48.0 million (consistent with the low-end of the original legislative estimate), and include provisional language (see below) authorizing the Department of Finance to augment the appropriation consistent with the findings of the audit.

X. Notwithstanding any other provision of law, upon completion, and consistent with the findings, of an audit by the State Controller, the Director of the Department of Finance may increase the funding in this item by an amount not to exceed \$89,600,000 to pay for the reasonable costs of the counties associated with the Presidential Primary Election of 2008. The Director of Finance shall notify in writing the chairpersons of the committees in each house of the Legislature that consider appropriations and the Chairperson of the Joint Legislative Budget Committee 30 days prior to making any such adjustment.

VOTE:

2. Trailer Bill Language (TBL) Necessary to Implement Ten-Percent GF Reduction.

The Subcommittee previously approved a \$3.5 million GF reduction in costs associated with the printing and mailing of the Voter Information Guide (VIG); however, certain revisions to statute are necessary in order for the SOS to carry out the proposal.

Staff Recommendation: APPROVE the TBL necessary to carry out the previously approved reduction, but with a one-year sunset on the new one-VIG-per-address provision (see Attachment 2 for language).

VOTE:

1760 Department of General Services

The Department of General Services (DGS) provides management review and support services to state departments. The DGS is responsible for the planning, acquisition, design, construction, maintenance, and operation of the state's office space and properties. It is also responsible for the procurement of materials, data processing services, communication, transportation, printing, and security.

The Governor's Budget begins by funding 4,084.4 positions (a net increase of 127.6 positions relative to adjusted current year totals) and budget expenditures of \$1.2 billion (including \$7.9 million General Fund) for the department, but then includes a 10 percent, across-the-board General Fund (GF) reduction (Budget-Balancing Reduction–BBR) of approximately \$794,000, to be taken from State Capitol maintenance and repairs program (see Vote-Only Item #1).

VOTE-ONLY ITEMS:

1. BCP-1: School Facilities Program (SFP)—Fiscal Services Staffing. The DGS requests 7.0 positions (including 1.0 two-year limited-term position) and \$740,000 (School Facilities Fund) for the Office of Public School Construction (OPSC) to address SFP audits, and to establish an automated and integrated audit information system.

Staff Comments: As discussed at a previous hearing, the SFP workload has grown significantly in recent years due to the authorization of over \$35.0 million in school facilities bond funding since 1998. While over \$23.0 billion of this school facilities funding has already been apportioned and billions more will flow “out the door” in the coming years, the fact that each project can take more than nine years to go from application to closeout means that OPSC's SFP workload is only beginning to peak, and will almost certainly continue for the next ten years.

The Subcommittee previously held this item open in order to provide Senate Budget Subcommittee #1 (on Education) the opportunity to hear and comment on this proposal. At a hearing on May 13, that subcommittee recommended approval of this request.

Staff Recommendation: APPROVE the request.

2. BCP-2: Williams Settlement-Program Services Staffing for the Emergency Repair Program (ERP). The DGS requests 2.0 positions and \$217,000 GF to process, review, and approve, in a timely manner, emergency repair requests from school districts seeking funding under the Williams Settlement.

Staff Comments: As discussed at a previous hearing, the transformation of the ERP from a reimbursement program to a grant program significantly increased demand for the funds available under the Williams Settlement, such that the OPSC anticipates 5,125 ERP applications over the next three years. Although, according to the OPSC, this projected workload would ordinarily justify 8.0 positions, the OPSC conservatively requests 2.0 positions to address increased ERP applications.

Similar to Discussion Item 1 above, the Subcommittee previously held this item open in order to provide Senate Budget Subcommittee #1 (on Education) the opportunity to hear and comment on the proposal. At a hearing on April 29, that subcommittee recommended approval of this request. However, in light of the deepening fiscal crisis reflected in the May Revise, and the minimal amount of additional project funding that is anticipated to flow to the ERP as a result, the Subcommittee may wish to consider denying this request. Notwithstanding the increased number of applications anticipated by the OPSC based on currently available funding, existing staff ought to be sufficient to approve the projects for which there is funding (and the state should not be spending previous additional GF in order to approve projects for which there may not be ready funding).

Staff Recommendation: DENY the request, and score \$217,000 in GF savings.

3. TBL: Shift ERP Audit Responsibilities to Counties. The Administration proposes Budget Trailer Bill Language (TBL) to require a county superintendent or his or her designee to conduct financial and compliance audits of school districts within his or her county that obtained ERP funds.

Staff Comments: Similar to the ERP issue above (Item 2), this item was discussed at a previous subcommittee and held open pending comment from the Senate Budget Subcommittee #1. At a hearing on April 29, that subcommittee recommended denial of this request due to concerns about local mandated costs as well as questions as to whether county offices of education staff have the expertise to conduct these project audits.

Staff Recommendation: DENY the TBL.

4. Capital Outlay FL: Renovation of H and J Buildings—Patton State Hospital. The DGS requests reappropriation of \$2,017,000 (Earthquake Safety Public Buildings Rehabilitation Bond Fund of 1990), originally approved in FY 2007-08 for working drawings in the renovation of buildings H and J at Patton State Hospital.

Staff Comment: This item was previously discussed, but held open pending additional information from the DGS on how long it would take to “repay” the additional costs incurred to incorporate Leadership in Energy Efficient Design—New Construction (LEED-NC) principles into the project. The DGS estimates anticipated annual energy costs avoided of approximately \$25,000, meaning it will require approximately six years to pay-off the roughly \$150,000 in additional costs incurred due to the potential one month schedule extension required for LEED-NC design.

Staff Recommendation: APPROVE the request.

VOTE on Staff Recommendation for Vote-Only Items 1 through 4:

DISCUSSION ITEMS:

1. BCP-13: Architecture Revolving Fund (ARF) Deficit. The Administration notified the Legislature via this BCP that, at the time of the Governor's Budget, there was a \$14.7 million deficit within the DGS' ARF. The DGS outlined an initial multi-faceted plan to resolve the ARF deficit, but, based upon additional discussion within the Administration, returned in May with a formal Action Plan to address the growing problem.

Staff Comment: Although this item was discussed at an earlier hearing and held open, the following provides a brief overview/review of the issue:

The ARF is a depository for moneys appropriated for new construction, major construction and equipment, minor construction, maintenance and equipment, and other building improvement projects. According to the DGS, the deficit condition has occurred in 11 of the past 12 years and is the result of several factors, including the following:

- **Construction Delays**—Delays have resulted in construction costs that, due to inflation, far exceed project estimates.
- **Budget Package Rates Set Too Far in Advance**—Hourly rates in budget packages are set five years in advance to accommodate the state budget process which means that they do not account for incremental changes in employee compensation, retirement adjustments, or escalation of construction costs.
- **Cancelled Projects**—On large projects the DGS receives a loan to cover initial project costs, but when a project is suddenly canceled the DGS is forced to absorb the now unfunded costs in the ARF.
- **Unfunded Projects**—The DGS is frequently requested to perform alteration and construction projects for the Administration's central service agencies which are unbudgeted and do not have fund sources.

The DGS reports that between 2002-03 and 2006-07, a total of 902 ARF projects closed in a deficit position.

At the previous hearing, the Chair requested the DGS to provide (before the close of budget subcommittees): (1) the number of "unbudgeted/unfunded" projects; (2) assurances that the DGS has ceased the practice of ordering work on such projects; and (3) a plan going forward (either a final ARF deficit action plan, or the most up-to-date version of an unfinished plan). Subsequently, the Administration submitted an "ARF Deficit Action Plan" containing the following key points:

- Based on additional reconciliation of records primarily from non-closed projects, **the DGS now estimates the ARF deficit at \$27.2 million** (or almost double the original estimate).
- The Administration plans to address the ARF deficit in an entirely prospective manner by **levying a 3.119-percent surcharge** on specified new ARF-funded projects, rather than attempting to identify, allocate, and recover costs directly from state agencies for specified unfunded or under-funded projects. The Administration believes this approach will better enable client agencies to anticipate and budget for the costs, and will minimize the workload on the DGS and client agencies.

- The ARF surcharge would be implemented beginning in FY 2008-09 and run through FY 2012-13, by which time the DGS anticipates the deficit would be fully recovered and a **\$1.0 million reserve** would be in place.
- DGS is already, or is planning to, doing each of the following to further address the ARF deficit:
 - Additional budget training for DGS staff.
 - Reissue a revised Administrative Order 06-14 to enhance system controls and ensure that no project is initiated until available funds are identified to pay for the project.
 - Meet with the Department of Finance monthly to provide status updates.
 - Implement a training program for project directors and project managers.
 - Augment non-closed capital outlay deficit projects through the existing capital process so that actual project costs are accurately reflected.
 - Develop and distribute a Management Memo to all state agencies with direction on the appropriate use of the ARF.
- During the 2009-10 budget process, the DGS plans to propose:
 - A shift of \$43.6 million in positions-related expenditures (including operating expenses and equipment) from the ARF to the Service Revolving Fund (SRF) in recognition of the fact that the ARF is not a true fund. Rather, services rendered by positions currently funded by the ARF should be funded by the SRF and reimbursed by the ARF to the extent work is performed/funding is deposited.
 - Exclusion of the ARF from the Statewide Prorata assessment.

Based on the action plan and supplementary information provided by the Administration, the Subcommittee may wish to follow-up with some or all of the following questions:

1. Who is ultimately responsible for ordering projects to go forward without funding in the ARF? What assurance can the Administration provide that work of this kind will not occur in the future—that is, without funding—even when there is an overwhelming political, to do so?
2. While the mere existence of unfunded projects is concerning, under-funded projects appear to be a far larger problem. The Administration’s “prospective” approach to the ARF deficit, through the use of a surcharge, has appeal because of its ease of implementation, but doesn’t it potentially let some departments off the hook for costs that are legitimately theirs to bear, while unduly burdening other departments who must repay more than their fair share? Is it at all feasible to have departments whose “underfunded” projects make up a disproportionate share of the deficit (relative to their current share of DGS costs) pay back their share independent of the surcharge?
3. Why should we create a \$1.0 million reserve for a “revolving” fund? Shouldn’t the ARF operate under the principle of “a dollar in—a dollar out?” Wouldn’t a reserve act a like a “slush” fund for unfunded projects and further perpetuate the current problem?

Staff Recommendation: APPROVE placeholder control section language that would generally require the DGS to do the following:

1. Allocate approximately \$14.2 million in unfunded or underfunded project costs to the department responsible for incurring the costs, and develop a plan for repaying those funds to the ARF.

2. Develop a surcharge rate methodology that will enable the remainder of the ARF deficit (approximately \$13.0 million) to be repaid within five years.
3. Require the DGS to report to the Legislature at regular intervals (at least annually) on progress toward reforming ARF-related budget and accounting practices, and correction of the ARF deficit.
4. Require the DGS to report to the Legislature on any unfunded project costs incurred.
5. Prohibit the establishment of an ARF reserve or “slush” fund.

VOTE:

5. BCP-8: Real Estate Leasing and Space Planning Workload. The DGS requests 19.0 permanent and 4.0 limited-term positions and \$1.9 million (Service Revolving Fund) in order to address a backlog of leasing and planning workload.

Staff Comment: This item was heard on March 26, 2008, and denied due to insufficient justification in light of the state’s fiscal crisis; however, the Chair offered reconsideration if the DGS could show that the request would directly impact health and safety, and/or generate off-setting savings. Subsequently, the DGS provided the following information:

- *State programs are impacted by [DGS’] inability to move quickly in providing the services requested in terms of increased costs for leased space. Funding the BCP will ensure **annual cost avoidance of \$24.9 million** composed of:*
 - *Lost opportunities to negotiate lower rates (\$15.94 million – 99% probability of occurrence)*
 - *Unscheduled rent increases (\$1.38 million – 95% probability of occurrence)*
 - *Forced moves and evictions (\$7.59 million – 80% probability of occurrence).*
- *The BCP documents 85.22 average weeks of backlog per planner in July 2007. In January 2008, the average weeks of backlog per planner went up to 91.99 and in the last report for April 2008, the average weeks of backlog for planners was up to 96.87.*

According to the DGS, approximately one-third of all state leases are in the renewal process at any given time, and the state occupies a relatively stronger bargaining position when renewing a lease if the negotiations with the landlord are initiated 6 to 8 months in advance of the expiration instead of afterward. The difference in price may be only \$0.15 to \$0.25 per square foot, but because the DGS manages 1,861 leases or about 18.9 million square feet, the potential savings (realized or lost) runs into the millions of dollar, per year (as noted above). While staff acknowledges the general validity of the DGS argument, the Subcommittee may wish to adopt supplemental report language requiring the DGS to document the actual savings realized if any or all of the requested positions are approved.

Notwithstanding the logic of the DGS business case, staff notes that at least 4.0 of the requested positions associated with the implementation of the Federal REAL ID Act are not justified because the projected workload is overly speculative at this time. The federal government recently granted the states additional time to implement the REAL ID Act and, therefore, the state has opted not to take immediate steps to acquire the 17

new Department of Motor Vehicle facilities referenced in the BCP as part of the workload justification.

Staff Recommendation: Upon reconsideration, APPROVE 15.0 permanent positions and 4.0 limited-term positions. APPROVE the following SRL requiring the DGS to track RELPS workload and document the actual savings realized by addition of the approved positions:

1. *The department shall provide a report to the Legislature by May 1, 2009, comparing the current Work-on-Hand (backlog) to benchmarked data as of May 1, 2008.*
2. *The department shall provide a report to the Legislature by May 1, 2009, comparing the Lessor's proposed lease rate to the final lease rate negotiated by the State.*

VOTE:

6. BCP-9: State-Owned Space Planning Workload. The DGS requests 7.0 positions and \$614,000 (Service Revolving Fund) in order to address a backlog of space planning projects within state-owned facilities.

Staff Comment: Similar to Discussion Item 5 above, this item was heard previously and denied due to insufficient justification in light of the state's fiscal crisis; however, the Chair offered reconsideration if the DGS could show that the request would directly impact health and safety, and/or generate off-setting savings. In subsequent discussions with staff, the DGS provided information to support its claim that the request would result in FY 2008-09 cost avoidances of:

- \$3.7 million in decreased private lease payments by maximizing/optimizing the use of existing state-owned space;
- \$540,000 in private lease payments and an increase of \$388,800 in increased rental income by converting vacant state-owned retail space;
- \$392,000 in project cost inflation by reducing project delivery by approximately nine months.

While these estimated cost avoidances would more than off-set the cost of the requested positions, staff notes concern that similar cost avoidances might be achieved without requiring as many staff if, in tough fiscal times, the DGS prioritized projects according to their cost/benefit to the state. Based on conversations with the department, it is staff's understanding that projects with immediate health and safety implications are given immediate attention (as they should be), but all others are addressed more or less in the order in which they are received. According to the DGS, the 2007-08 workload for the Design Services-Studio 1 consists of 284 projects, which break down as follows:

(5) Fire & Life Safety – Projects and requests due to building safety systems not being in order (i.e. fire alarm, fire sprinklers, fire walls).

(2) Emergency – Architectural projects needing immediate attention in order to preserve/restore safety or prevent further loss of State property.

(17) ADA Access Compliance-Related – Projects & requests responding to physical access by persons with disabilities (i.e. reasonable accommodation requests, response to ADA physical barrier complaints, corrections of deficiencies, etc.).

(26) Security Related – Projects dealing with physical security and defense of the State (i.e. Bullet-resistant lobbies and windows, access security systems, video surveillance, Dept. of Homeland Security/DOJ projects).

(24) Consolidation – Projects related to creating and optimizing space in State-owned buildings in order to reduce the use of private lease space.

(2) Convert Retail to Office Space – Vacant retail space being converted to state tenant office space.

(47) Modular Furnishings & Related Electrical

(132) Tenant Improvements – Projects involving hard wall modifications, mechanical & electrical changes; may include modular furnishings, paint and carpet as part of the scope.

(29) Other – Miscellaneous other requests (i.e. water intrusion, space assignments, signage, maintenance replacement design).

Based on even a cursory review, it becomes evident that roughly one-quarter of the projects identified above would immediately qualify as high priority either due to health and safety (fire & life safety, emergency, ADA Compliance, and security) or the potential for cost savings (consolidation and conversion of retail to office space). This leaves 208 projects (or 73 percent of the total projects) that are not clearly or readily identifiable as meeting the Subcommittee's fiscal-crisis definition of requiring immediate resources/attention. Setting aside the group of modular furnishings and related electrical projects, staff requested additional detail on the roughly 160 (or approximately 50 percent) of projects that fall under the categories of tenant improvements and "other," and subsequently determined that some, but by no means all, of the projects meet the fiscal-crisis criteria set by the Subcommittee this spring when considering additional funding for departments.

If the 284 projects identified as current-year workload are representative of the backlogged workload for which the DGS is requesting this increase, then the department has failed to provide adequate justification for approximately half of the positions requested. Given that approximately one-quarter of current projects clearly meet the Subcommittee's criteria and some additional increment would likely lead to increased efficiencies, the Subcommittee may wish to approve a partial compliment of 3.0 of the 7.0 request positions (including a Staff Space Planner, an Associate Space Planner, and Temporary Help (Retired Annuitant) Senior Architect).

Staff Recommendation: Upon reconsideration, APPROVE 3.0 positions (as described above).

VOTE:

1955 Department of Technology Services

The Department of Technology Services (DTS) was created in 2005 by the reorganization and consolidation of the Stephen P. Teale Data Center (Teale), the Health and Human Services Data Center (HHSDC), and certain telecommunications functions of the Department of General Services. The DTS serves the common technology needs of state agencies and other public entities. The DTS maintains accountability to customers for providing secure services that are responsive to their needs and represent best value to the state. Funding for DTS is provided by contracts with other state departments.

The Governor's budget funds 805.5 positions (a net increase of 37.7 positions relative to current year adjusted totals) and expenditures of \$279.6 million (special fund).

DISCUSSION ITEM:

FL: New Central California Data Center—Request for Long-Term Lease with Purchase Option Authority. The DTS requests provisional language to be added to Item 1955-001-9730 to authorize the DGS to enter into a long-term lease with purchase option for a new Central California data center.

Staff Comment: This item was discussed at a previous hearing and held open to permit staff more time to consider the proposed language. Subsequently, the LAO recommended that the Subcommittee adopt the following revised provisional language to require the DTS to report on the rate impact to customer department invoices that would result from this estimated \$117.0 million project"

The Department of General Services, with the consent of the Department of Technology Services, may enter into a lease-purchase agreement for a build-to-suit facility to develop a data center in the Central Valley, subject to Department of Finance approval of the terms and conditions of the agreement. Thirty days prior to entering into any agreement, the Department of General Services shall notify the chairperson of the committee in each house which considers appropriations and the Joint Legislative Budget Committee of terms and conditions of the agreement. This notification shall include an analysis of the associated rate impact to customer department invoices. If the Joint Legislative Budget committee does not express any opposition or concerns, the Department of General Services may proceed with the agreement 30 days after giving notice.

Staff Recommendation: APPROVE the LAO's revised provisional language (above).

VOTE:

2240 Department of Housing and Community Development

A primary objective of the Department of Housing and Community Development (HCD) is to expand housing opportunities for all Californians. The Department administers housing finance, economic development, and rehabilitation programs with emphasis on meeting the shelter needs of low-income persons and families, and other special needs groups. It also administers and implements building codes, manages mobilehome registration and titling, and enforces construction standards for mobilehomes.

The Governor's Budget begins by funding 659.2 positions (including 54.0 new positions) and budget expenditures of \$1.1 billion (including \$16.0 million GF) for the department, but then includes a 10-percent, across-the-board GF reductions (BBRs) totaling approximately \$1.3 million.

The majority of the HCD's expenditures are supported by general obligation bond revenue. The budget includes approximately \$37.0 million in funding from the Emergency Shelter Trust Fund Act of 2002 (Prop 46) – down by approximately \$49.0 million from 2006-07 due to the exhaustion of the bond funds. The budget also includes approximately \$771.0 million (excluding administrative costs) from the Housing and Emergency Shelter Trust Fund Act of 2006 (Prop 1C). Portions of Prop 1C funds are continuously appropriated, and the HCD is using this existing authority to expend \$973.0 million in Prop 1C funds in FY 2007-08.

The second largest revenue source is federal funds, estimated at \$174.5 million in 2008-09, which is about the same as 2007-08. Remaining expenditures of about \$77 million are covered by the GF (\$14.7 million), fees, and other miscellaneous revenues.

VOTE-ONLY ITEMS:

1. FL-1: Local Agency Code Enforcement—Transfer of Local Agency Responsibility to the HCD. The HCD requests 5.0 positions and \$521,000 (special fund) to address the transfer from local agencies of code enforcement responsibilities for mobilehomes and special occupancy parks back to the state.

Staff Comment: This item was previously heard and held open to allow the maximum time possible for the Legislature to learn whether San Bernardino County will indeed return its enforcement responsibilities to the state. However, to date, the county has not made a final decision, so staff recommends that the Subcommittee approve the proposed resources as well as the provisional language that makes those resources contingent upon the transfer of the local agency responsibility to the HCD.

Staff Recommendation: APPROVE the request.

VOTE:

2. BBR: Emergency Housing Assistance Program. The Governor proposes a reduction of \$401,000 GF to this program, which helps to fund local homeless shelters, providing a portion of the funding for approximately 19,000 shelter spaces annually.

Staff Comment: This item was previously heard and held open in order to try and identify funding to bridge the gap between current funding levels and the Governor's proposed reduction. However, given the state's deteriorating fiscal outlook, "bridge" funding is not available at this time. As previously noted, the state currently provides about 10 percent of the overall funding for local homeless shelters. Although the amounts awarded to shelters vary, on average this proposal would result in a 1-percent reduction in total funding for each of 19,000 shelter spaces.

Staff Recommendation: DENY the reduction.

VOTE:

DISCUSSION ITEMS:

1. BBR: Office of Migrant Services (OMS). The Governor proposes an annualized reduction of \$687,000 to the OMS program, which provides safe, decent, and affordable seasonal rental housing and support services for migrant farmworker families during the peak harvest season. The 2008-09 Governor's Budget assumes only \$343,000 in savings in the Budget Year due to the lag time required to implement the reduction.

Staff Comment: As discussed at a previous hearing, the HCD originally estimated the state would need to shut down four to six of the 25 OMS Centers to achieve the budgeted savings; however, during the special session the HCD was able to eliminate state funding from one center (Firebaugh) while the locals kept the facility open utilizing reserve funds. This arrangement saved approximately \$202,000 GF, but still requires the department to find an additional \$141,000 in savings in the budget year.

Since the special session, the HCD has applied for federal grant funds to rehabilitate up to six centers that currently have Rural Development (RD) loans from the United States Department of Agriculture. At a prior hearing, this Subcommittee approved the authority to spend those funds. While the HCD is very optimistic that the state will successfully compete for sufficient funds to offset the remainder of this proposed reduction, the Subcommittee must still weigh the possibility that these funds will not materialize, in which case the program would have to find another way to take the reduction.

According to the HCD, if federal funding is not available, there is a possibility that additional local agencies could be identified to take responsibility for two to four migrant centers and reduce the state's expenditure liability (similar to Firebaugh). However, barring this, the worst case scenario would involve the closure of two to four centers beginning with the 2009 growing season (Spring 2009). The HCD would determine which centers to close based on the following criteria, listed in priority order:

- **Vacancy rate** – The centers with the highest vacancy rate would be closed first.
- **Condition of center** – The centers that require the largest dollar amount of rehabilitation and deferred maintenance would be closed next.
- **Available alternative housing** – Centers in communities that have other migrant farmworker housing available would be closed next.
- **Geographic proximity to work opportunities for residents** – Centers that are furthest from work opportunities would be considered for closure next.

- **Availability of other resources to operate or groups to take over operation of the center** – Communities where other operators and resources are identified to produce migrant farmworker housing in the near future, within two years.

If the Subcommittee is averse to the potential closing of any OMS centers, it may wish to consider making the proposed reduction contingent upon receipt of federal funding by adding the following provision to Item 2240-101-0001:

2. Notwithstanding any other provision of law, upon receipt of federal funds for the rehabilitation of migrant farmworker housing, the Director of the Department of Finance may reduce funding in this item for the Office of Migrant Services by an amount not to exceed \$343,000 or the level of federal funding awarded, whichever is less, not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees in each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine.

Staff Recommendation: DENY the reduction, but APPROVE provisional language (above) to enable GF savings to be realized if the HCD receives federal funds for the migrant centers.

VOTE:

2. Housing and Emergency Shelter Trust Fund Act of 2006 (Prop 1C). Prop 1C provided for a general obligation bond issuance not to exceed \$2.85 billion. The Governor proposes to award \$771.0 million in Prop 1C revenues in 2008-09, on top of the \$973.0 million estimated to be expended in the current fiscal year and \$162.0 million awarded in FY 2006-07.

Staff Comment: As discussed at a previous hearing, some Prop 1C programs are continuously appropriated, while others require a Budget Act appropriation to authorize expenditure. Two of the programs requiring Budget Act appropriation, the Infill Incentive Program (Infill) and the Transit-Oriented Development Program (TOD) have experienced greater than anticipated demand in FY 2007-08:

- Infill was budgeted at \$300 million, released a Notice of Fund Availability (NOFA) for \$240 million, and received approximately \$1 billion in applications.
- TOD was budgeted at and released a NOFA for \$95 million and received \$544 in applications.

The HCD has expressed an interest in providing more funding for the current NOFAs (above), but would prefer to obtain a supplemental appropriation on an urgency basis rather than wait for additional funding in the Budget Act of 2008. However, as an alternative to a supplemental appropriation (which would have to be approved outside the budget process), the Subcommittee may wish to increase the FY 2008-09 appropriation for these programs. The additional funds could either be used to provide additional awards (but at a later date than the first round of awards) under the current NOFA, or could augment the amount of award dollars made under a second NOFA in 2009. While the HCD has indicated that Infill could be successfully increased by \$100 million, and TOD by \$50 million, the Subcommittee will want the HCD to state a preference as to whether a Budget Act increase would be most effectively applied toward the first round of NOFAs or a second round.

Staff Recommendation: INCREASE Prop 1C funding for the Infill and TOD programs by \$100 million and \$45 million, respectively.

VOTE:

Prop 1C—Housing Urban-Suburban-and-Rural Parks Program (Items 3 & 4)

The following two items should be considered and voted upon together.

3. BCP-11: Housing Urban-Suburban-and-Rural Parks Program with TBL. The Governor proposes: (1) trailer bill language (TBL) to implement the Housing Urban-Suburban-and-Rural Parks (Housing-Related Parks) Program created under Prop 1C; (2) 2.0 positions and \$583,000 (bond funds), including \$350,000 for an interagency agreement with the Department of Parks and Recreation (DPR) to fund state operations of the Housing-Related Parks Program; and (3) Budget Act authority to award \$30 million in bond funds to qualifying projects for housing-related parks.

Staff Comments: As discussed at a previous hearing, the Governor's Budget contains funding to support a program in which the HCD would implement a Housing-Related Parks Program in conjunction with the DPR. However, the Governor has proposed changes to the structure and the funding of the program in the May Revise (see Discussion Item 4 below).

4. May Revise Letter: Housing Urban-Suburban-and-Rural Parks Program with TBL. The Governor proposes the following changes to his original Housing-Related Parks proposal (described in Discussion Item 3 above): (1) reduce HCD operations by \$124,000 (special funds) and 2.0 positions; (2) shift all administrative responsibilities previously proposed to reside with the DPR to the HCD; and (3) revise the conditions under which bonus awards may be granted to applicants.

Staff Comments: While the Governor's latest proposal moves away from targeting Housing-Related Parks dollars at areas underserved by parks and shifts implementation of the program entirely into the hands of the HCD, Senate staff have developed alternative language (contained in Attachment 3) that would set various housing requirements (including housing for low-income households) as a threshold for participation in the program, but require applicants to compete for award dollars based on the need for the proposed park. Attachment 4 contains a more exhaustive

comparison of the two proposals, but the following table summarizes the primary differences:

Trailer Bill Language – As Amended in May Revise	Competitive Parks Program with Housing Eligibility Alternative
Deletes previous provision requiring jurisdictions must be critically underserved by park and recreation facilities as established by DPR. HCD to establish eligible types of park projects using definitions provided by and previously established by DPR.	Priority given to projects that will provide park and recreation access for a parks-underserved community. (Competitive program with guidelines developed by DPR).
No provision related to affordable housing except for bonus funds.	Grant eligibility dependent upon issuance of building permits for new units that are affordable to very low or low-income households. The amount that a jurisdiction may receive from the competitive program is dependent on the number of units approved.
Bonus funds awarded to the following: <ul style="list-style-type: none"> • Units affordable to very low and low-income households developed in infill projects. • Jurisdictions that have met or exceeded housing thresholds established by HCD, in consultation with DOF. • Housing starts for units that are affordable to lower income households. 	Priority given to projects for the following: <ul style="list-style-type: none"> • Units affordable to very low and low-income households developed in infill projects • Qualifying units affordable to extremely low-income households. • Jurisdictions that have projects that will develop park and recreation access to a parks underserved community • Park projects that were selected and developed with the cooperation of the community whom the project is meant to serve and any appropriate parks district.
Not addressed.	Provides that every applicant for a grant must comply with the following: <ul style="list-style-type: none"> • Operate and maintain property so that it is usable by residents of the targeted critically underserved community. Allow the applicant to transfer the property to another entity if approved by DPR. • Use the property only for the purposes for which the grant was made. If the property is sold or disposed, of the grant recipient shall reimburse the state an amount equal to the amount of the grant. Instead of seeking reimbursement, DPR may impose restrictions on the use of public park property.

While both of the proposed programs would use park funding to incentivize the production of housing, should the members choose to focus limited Housing-Related Parks dollars specifically on promoting low-income housing production and development of parks in the most park-underserved areas, the Subcommittee may wish to adopt the Senate's alternative TBL.

Staff Recommendation: DENY the Governor's May Revise proposal and APPROVE the Senate's alternative TBL (contained in Attachment 3).

VOTE:

8940 Military Department

The California Military Department (CMD) is responsible for the command, leadership, and management of the California Army and Air National Guard and five other related programs. The purpose of the California National Guard (CNG) is to provide military service supporting this state and the nation. The three missions of the CNG are to: (1) supply mission ready forces to the federal government as directed by the President; (2) provide emergency public safety support to civil authorities as directed by the Governor; and (3) support local communities as directed by proper authorities. The CMD is organized in accordance with federal Departments of the Army and Air Force staffing patterns. In addition to the funding that flows through the State Treasury, the CMD also receives Federal Funding directly from the Department of Defense.

The Governor's Budget begins by funding 888.5 positions (a net increase of 77.0 positions over adjusted current year totals) and budget expenditures of \$146.5 million (including \$47.5 million GF) for the department, but then includes 10-percent, across-the-board, GF reductions (BBRs) of approximately \$4.6 million.

VOTE-ONLY ITEMS:

1. BBR: California National Guard Youth Programs. The Governor proposes a reduction of \$1.2 million GF and 6.0 positions to this program, which operates five youth programs located throughout the state.

Staff Comment: This item was heard previously and held open due to the need to further discuss interactions with the item below (Vote-Only Item 2).

According to the CMD, the proposed reduction would be taken in the following manner: (1) Headquarters of Youth Programs: 1 PY in management; (2) Oakland Military Institute: 1 PY dedicated to student supervision and training; (3) Grizzly Youth Academy: \$212,000 in state funding, \$318,000 in federal funding, and 1 PY, requiring it to serve 90-100 fewer students annually; (4) Challenge Support: \$56,000 and 1 PY and resulting in difficulty in reaching the graduation requirement of 200 students; and (5) Sunburst Youth Academy: \$100,000 in state funding, \$200,000 in federal funding, and 1 PY, requiring it to serve 80-90 fewer students annually.

Staff notes that the Legislature approved a CY-reduction of \$100,000 GF to this program in the special session.

2. FL: Sunburst Youth Academy Staff and Operating Funds. The CMD requests 3.0 positions and \$280,000 (federal funds) for the Youth ChalleNGe Program at Los Alamitos Joint Forces Training Base.

Staff Comment: This item was previously heard and held open. Based on additional conversations with the department, staff now understands that, although this request did not come forward until April, the funding was anticipated and factored into the proposed reduction in the Sunburst program (see Vote-Only Item 1 above). Therefore, unless the Subcommittee wishes to cut more deeply into the program, this Item should be approved if the related reduction above is going to be approved.

Staff Recommendation on Vote-Only Items 1 and 2: APPROVE as budgeted.

VOTE:

DISCUSSION ITEM:

BCP-3: Joint Operations Center (JOC) Staffing. The CMD requests 14.0 positions and \$1.3 million GF for the JOC to provide immediate response to the Governor's Office, Office of Emergency Services (OES), and the public during disasters and special security events.

Staff Comments: This item was discussed at a previous hearing and held open. The Governor's request would fully backfill expiring federal funding that has enabled the state to maintain an all-time historic high emergency response capability. In light of the deepening fiscal crisis reflected in the May Revise, the Subcommittee may wish to consider approving a more measured funding approach, as opposed to increasing the JOC GF to an all-time high.

Given the scarcity of GF, the subcommittee may also wish to have the CMD provide several alternative scenarios involving reduced staffing levels (and, therefore, savings to the GF). For example, staff notes that the BCP includes an alternative in which \$376,000 GF could be used to support 4.0 positions that would still allow 24/7 JOC staffing, but at a level of 1.0 position per shift instead of 3.0.

Staff Recommendation: DENY 10.0 positions and \$959,000 and APPROVE 4.0 positions and \$376,000 to maintain 24/7 JOC staffing.

VOTE:

Attachment 1

Program Functions that should be exempt from Reduction

10% General Fund reduction to SCO's 2008-09 Budget: \$8,986,000

Workload Budget Adjustments

21st Century Project—Currently, the budget includes \$21.9 million General Fund for the 21st Century Human Resources Management System project. This project is funded year-to-year through annual Budget Change Proposals and is not part of the SCO's baseline budget. To the extent that this funding is not removed, this reduction would result in termination of the project because reductions would have to be applied to state staff and SCO would be unable to meet requirements pursuant to the contract. Furthermore, exempting this project from the reduction would treat this consistent with the California Child Support Automation System project (CCSAS) to minimize unnecessary added risk to the project. -\$2,190,000

Special Fund Agency Services Funded by Prorata—The SCO provides constitutionally-mandated services for special fund agencies. Although the appropriation to SCO for these services is provided from the General Fund, these costs are recovered through a prorata assessment on those special funds. Of the \$50.1 million General Fund central service functions provided by SCO, approximately 36 percent or \$18 million is attributable to special funds. Therefore, the General Fund workload budget should be reduced by \$18 million and correspondingly eliminate \$1.8 million from the reduction. -\$1,800,000

Constitutional or Revenue Generating Consideration

Revenue Generating Audit Functions—SCO's Audit programs generate hundreds of millions annually to the General Fund in revenue and/or cost savings to the State. Approximately \$9.1 million funds the field audit functions for SCO and a 10 percent reduction to this program would result in a revenue loss of approximately \$9 million General Fund. These functions should be spared from the 10% reduction as they were for the Franchise Tax Board and the Board of Equalization. These two departments were expanded in recognition of their revenue-generating capabilities. -914,000

Constitutional Office—The direct support for the constitutional office of the State Controller and his policy representatives on statewide boards and commissions, including the Franchise Tax Board, Board of Equalization, State Teachers Retirement System, etc. must be maintained (\$1,949,000) -\$195,000

Constitutionally Mandated Services —The SCO provides constitutionally-mandated services to General Fund agencies, business partners, employees and local governments. The disbursement of warrants, the accounting of the State's books, and the processing of payroll remain core business requirements that must be maintained. Reductions to these programs could result in late payments that would include \$43 billion apportionments to local governments, which could result in cash flow problems for these entities. Other impacts could be late payments to vendors, late payroll for state employees and IHSS providers and both state and local retirement checks.	-\$3,200,000
Balance of General Fund Reduction	\$687,000
Reduce Travel, Training and General Expense	\$413,000
Total General Fund Reduction	\$1,100,000

The removal of the core functions listed above from the total General Fund portion of SCO's budget subject to the 10 percent reduction leaves \$6,870,000 to which a reduction could be applied. This funding provides support for such activities as providing financial reports to State decision makers; tax administration programs that collect loans due to the state and provide relief to the disabled, aged and blind; and the investigation of fraud, forgery and identity theft against the State and its employees. Furthermore, I have identified approximately \$413,000 in 2008-09 in operating expenses that can be reduced and not jeopardize critical program functions.

SOS—TBL Necessary to Implement Ten-Percent GF Reduction.

Elections Code:

9090. The ballot pamphlet shall be printed according to the following specifications:

(a) The pamphlet shall be printed in clear readable type, no less than 10-point, except that the text of any measure may be set forth in eight-point type.

(b) The pamphlet shall be of a size and printed on a quality and weight of paper which, in the judgment of the Secretary of State, best serves the voters.

(c) The pamphlet shall contain a certificate of correctness by the Secretary of State.

9094. (a) The Secretary of State shall mail ballot pamphlets to voters, in those instances in which the county elections official uses data processing equipment to store the information set forth in the affidavits of registration, before the election at which measures contained in the ballot pamphlet are to be voted on unless a voter has registered fewer than 29 days before the election. The mailing shall commence not less than 40 days before the election and shall be completed no later than 21 days before the election for those voters who registered on or before the 60th day before the election. The Secretary of State shall mail one copy of the ballot pamphlet to each registered voter at the postal address stated on the voter's affidavit of registration, or the Secretary of State may mail only one ballot pamphlet to two or more registered voters having the same postal address. Section 9094(a) shall remain in effect through June 30, 2009, but, as of July 1, 2009, is repealed and replaced by the following:

(a) The Secretary of State shall mail ballot pamphlets to voters, in those instances in which the county elections official uses data processing equipment to store the information set forth in the affidavits of registration, before the election at which measures contained in the ballot pamphlet are to be voted on unless a voter has registered fewer than 29 days before the election. The mailing shall commence not less than 40 days before the election and shall be completed no later than 21 days before the election for those voters who registered on or before the 60th day before the election. The Secretary of State shall mail one copy of the ballot pamphlet to each registered voter at the postal address stated on the voter's affidavit of registration, or the Secretary of State may mail only one ballot pamphlet to two or more registered voters having the same surname and the same postal address.

(b) In those instances in which the county elections official does not utilize data processing equipment to store the information set forth in the affidavits of registration, the Secretary of State shall furnish ballot pamphlets to the county elections official not less than 45 days before the election at which measures contained in the ballot pamphlet are to be voted on and the county elections official shall mail ballot pamphlets to voters, on the same dates and in the same manner provided by subdivision (a).

(c) The Secretary of State shall provide for the mailing of ballot pamphlets to voters registering after the 60th day before the election and before the 28th day before the election, by either: (1) mailing in the manner as provided in subdivision (a), or (2) requiring the county elections official to mail ballot pamphlets to those voters registering in the county after the 60th day before the election and before the 28th day before the election pursuant to the provisions of this section. The second mailing of ballot pamphlets shall be completed no later than 10 days before the election. The county elections official shall mail a ballot pamphlet to any person requesting a ballot pamphlet. Three copies, to be supplied by the Secretary of State, shall be kept at every polling place, while an election is in progress, so that they may be freely consulted by the voters.

Senate-Proposed Housing-Related Parks Program TBL.

This language establishes a competitive parks program run by the Department of Parks and Recreation with assistance of the Department of Housing and Community Development. HCD will determine who qualifies and the amount for which they qualify based on the number of affordable housing units that a city or county builds. Qualifying jurisdictions may then submit park projects to DPR who will rank and fund the projects on a competitive basis.

This hybrid proposal would reward local governments that build affordable housing by giving them eligibility to compete and would incorporate a competitive element to assure that the program funds the best park projects available throughout the state.

Add Chapter ____, Section XXX to the Public Resources Code:

XXX. For the purposes of implementing subdivision (d) of Section 53545 of the Health and Safety Code, the department, in conjunction with the Department of Housing and Community Development, shall develop a competitive grant program to distribute funds for acquiring, developing, and expanding local and regional parks to cities, counties, and cities and counties that:

- (a) Have park underserved communities and
- (b) Issue building permits for housing developments consisting of newly constructed units that are affordable to very low or low-income households.

XXX.1 For the purposes of this chapter, the following terms have the following meaning:

- (a) "City" means a city or a city and county.
- (b) "Department" means the Department of Parks and Recreation.
- (c) "Infill project" means a residential or mixed-use residential project located within an urbanized area on a site that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. A property is adjoining the side of a project site if the property is separated from the project site only by an improved public right-of-way.
- (d) "Park district" means a recreation and park district formed under Chapter 4 (commencing with Section 5780) of Division 5; a public utility district formed under Division 7 (commencing with Section 15501) of the Public Utilities Code in a nonurbanized area that employs a full-time park and recreation director and offers year-round park and recreation services on lands and facilities owned by the district; a memorial district formed under Chapter 1 (commencing with Section 1170) of Division 6 of the Military and Veterans Code that employs a full-time park and recreation director and offers year-round park and recreation services on lands and facilities owned by the district; the Malaga County Water District exercising powers authorized under Section 31133 of the Water Code; a community service district formed under Division 3 (commencing with Section 61000) of Title 6 of the Government Code in a nonurbanized area that is authorized to provide public recreation as specified in subdivision (e) of Section 61100 of the Government Code; and a county service area, or zone therein, within the County of San Bernardino that is empowered to provide public park and recreation services pursuant to Chapter 2.2 (commencing with Section 25210.1) of Part 2 of Division 2 of Title 3 of the Government Code, that is actually providing public park

and recreation services, and that was reorganized prior to January 1, 1987, from a park and recreation district to a county service area or zone.

(e) "Regional park district" means a regional park district formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3 of Division 5.

(f) "Urbanized area" means an incorporated city or an urbanized area or urban cluster as defined by the United States Census Bureau. For unincorporated areas outside of an urban area or urban cluster, the area must be within a designated urban service area that is designated in the local general plan for urban development and is served by public sewer and water.

(g) "Urban uses" mean any residential, commercial, industrial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

XXX.2 (a) The competitive grant program shall offer funding for park projects that meet all of the following:

- (1) Either acquires a new park, develop a new park, or expand an overused park,
- (2) Provides a new park or a new recreational opportunity, and
- (3) Are within the jurisdiction of the eligible applicant.

(b) To be eligible for funding, the applicant must meet minimum requirements established by the Department of Housing and Community Development. At a minimum, an eligible applicant must be a city, county, or city and county, that has:

(1) Adopted a housing element that the Department of Housing and Community Development, pursuant to Section 65585 of the Government code, has found to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of chapter 3 of Division 1 of Title 7 of the Government Code, and the jurisdiction has submitted to the Department of Housing and Community Development the annual progress report required under Section 65400 of the Government Code within the preceding 12 months.

(2) Issued a building permit for a housing development that consists of newly constructed units that are affordable to very low or low-income household within the designated time period and that meets either of the following criteria:

(A) In the case of rental units, the development is subject to a regulatory agreement recorded against the property that obligates the owner to maintain rents on the restricted units at levels affordable to very low or low-income households for at least 55 years.

(B) In the case of ownership housing, units in the development are initially sold to households of very low or low income at an affordable housing cost. If public funds are used to achieve an affordable housing cost, then upon the sale of an assisted unit to a low- or very low income household, the public entity shall ensure the repayment of the public funds and reuse of those funds for affordable housing for a period of at least 20 years. The proposed mechanism for restrictions of ownership units shall be consistent with criteria established by the department and specified in the Notice of Funding Availability.

(c) The grant amount that an eligible applicant may receive shall be based on the number of qualified housing units described in paragraph (2) in subdivision (b) that is approved by the jurisdiction and other criteria developed by the Department of Housing and Community Development.

(d) The department shall give priority to:

(1) Projects that will provide park and recreation access to a park underserved community, including neighborhoods where no parks currently exist.

(2) Projects that were selected, developed, and planned with the active involvement of community based groups and the neighborhoods to be serviced by the project and any applicable park district or regional park district.

(3) Applicants that have approved qualifying units affordable to very low and low-income households in infill projects.

(4) Applicants that have approved qualifying units affordable to extremely low-income households.

XXX.3 (a) To administer and develop the local assistance program under this chapter, the department shall:

(1) Develop a procedural guide for the administration of this chapter and the guidance of applicants. The procedural guide shall require applicants to illustrate how the proposed project is meeting the intent of the program and the funding source.

(2) Require applicants to illustrate how the project reflects the needs and demographics of the service area.

(b) The department may enter into an interagency agreement with the Department of Housing and Community Development to assist in the administration of the program.

XXX.4 (a) An applicant for a grant pursuant to this chapter shall agree to comply with all of the following requirements:

(1) To operate and maintain the property developed pursuant to this chapter so that it is usable by residents of the project's service area. With the approval of the department, the grant recipient, or its successor in interest in the property, may transfer its property interest and the responsibility to operate and maintain the property, in accordance with the terms of the grant and applicable law, to a public agency that is able to operate and maintain the property in perpetuity. An attempt to make a transfer in violation of this subdivision is void.

(2) To use the property only for the purposes consistent with this chapter and to make no other use or sale or other disposition of the property, except as authorized by a specific act of the Legislature. If the use of the property is changed to a use that is not permitted

by the terms of the grant, or if the property is sold or otherwise disposed of, the grant recipient shall reimburse the state an amount equal to the amount of the grant, the fair market value of the land and any improvements constructed with the grant, or the proceeds from the sale or other disposition, whichever amount is greatest. If the property that is sold or otherwise disposed of is less than the entire interest in the property funded with the grant, the grant recipient shall reimburse the state an amount equal to either the proceeds from the sale or other disposition of the interest or the fair market value of the interest sold or otherwise disposed of, whichever amount is greater.

(b) In lieu of seeking reimbursement pursuant to paragraph (2) of subdivision (a), the department may impose restrictions on the use of public park property identical to the requirements for the preservation of public parks set forth in the Public Park Preservation Act of 1971 (Chapter 2.5 (commencing with Section 5400) of Division 5) with respect to any property used, sold, or otherwise disposed of in a manner not permitted by the terms of the grant.

**Housing-Related Parks Program (Prop 1C)
Comparison of Revised Trailer Bill Language, and Senate Alternative (Competitive
Parks Program)**

Trailer Bill Language – As Amended in May Revise	Competitive Parks Program with Housing Eligibility Alternative
Deletes previous provision requiring jurisdictions must be critically underserved by park and recreation facilities as established by DPR.	Priority given to projects that will provide park and recreation access for a parks underserved community.
Substantial compliance with Housing Element.	Same. Eligibility requirement.
Submitted to HCD the annual report.	Same. Eligibility requirement.
Provides that HCD shall issue a NOFA to apply to new housing starts during the designated time period. No provision related to affordable housing except for bonus points.	Jurisdiction is eligible to apply for competitive funds if they have issued a building permit for new units that are affordable to very low or low-income households. The amount that a jurisdiction may receive from the competitive program is dependent on the number of units approved.
Bonus funds awarded to the following: <ul style="list-style-type: none">• Units affordable to very low and low-income households developed in infill projects.• Jurisdiction that have met or exceeded housing thresholds established by HCD, in consultation with DOF.• Housing starts for units that are affordable to lower income households.	Priority given to projects for the following: <ul style="list-style-type: none">• Units affordable to very low and low-income households developed in infill projects.• Qualifying units affordable to extremely low-income households.• Jurisdictions that have projects that will develop park and recreation access to a parks underserved community• Park projects that were selected and developed with the cooperation of the community whom the project is meant to serve and any appropriate parks district.
Defines infill project with the same definition as provided in SB 86 the Infill Incentives Grant Program under Proposition 1C.	Same.
Provides that the amount of bonus grants to be awarded shall be established in the NOFA.	N/A
Provides that grants provided shall be used for the costs of park and recreation facility creation, development, or rehabilitation including the acquisition of land for the purposes of those activities.	Same intent, different wording.

Provides that HCD shall establish eligible types of park projects using definitions provided by and previously established by DPR.	N/A (competitive program)
Deletes eligibility requirement that the park or recreation facility for which grant funds will be used shall have a primary service area that is critically underserved by park and recreation facilities, based on criteria established by DPR.	Prioritizes funding parks or recreation facilities whose primary service area is critically underserved by park and recreation facilities, based on criteria established by DPR. (Not an eligibility requirement.)
Provides that HCD must adopt guidelines for the operation of the program.	HCD must develop eligibility guidelines pertaining to the number of affordable units permitted; DPR develops guidelines for the competitive program.
Deletes provision that HCD may enter into an interagency agreement with DPR to assist in the administration of the program.	Provides that DPR may enter into an interagency agreement with HCD to assist in the administration of the program.
Provides that a grantee may contract with another entity to complete the park or recreation facility project for which it has received funds.	No. But gives priority to projects that were selected and developed in conjunction with the appropriate park or regional park district.
Funds awarded shall supplement, not supplant, other available funding.	Not addressed.
Defines park and recreation facility, but does not include nonmotorized recreational trails, community gardens, enjoyment of scenic open space, nature appreciation and study and outdoor education, and regional recreational trails.	Not addressed. Can be added if deemed necessary, otherwise this would be specified in program guidelines.
Not addressed.	Provides that every applicant for a grant must comply with the following: <ul style="list-style-type: none"> • Operate and maintain property so that it is usable by residents of the targeted critically underserved community. Allow the applicant to transfer the property to another entity if approved by DPR. • Use the property only for the purposes for which the grant was made. If the property is sold or disposed of, the grant recipient shall reimburse the state an amount equal to the amount of the grant.

	Instead of seeking reimbursement, DPR may impose restrictions on the use of public park property.
Deletes provision, that, to be eligible for funding, the park or recreation facility for which grant funds will be used shall have a primary service area that is critically underserved by park and recreation facilities, based on criteria established by DPR.	Gives priority to projects that serve a park underserved community. Not a eligibility requirement.